

§ 390.31

otherwise specifically provided for in the Local Rules.

§ 390.31 Rules of construction.

For purposes of §§ 390.30 through 390.70 of this part:

(a) Any term in the singular includes the plural, and the plural includes the singular, if such use would be appropriate;

(b) Any use of a masculine, feminine, or neuter gender encompasses all three, if such use would be appropriate;

(c) The term *counsel* includes a non-attorney representative; and

(d) Unless the context requires otherwise, a party's counsel of record, if any, may, on behalf of that party, take any action required to be taken by the party.

§ 390.32 Definitions.

For purposes of §§ 390.30 through 390.70 of this part, unless explicitly stated to the contrary:

Adjudicatory proceeding means a proceeding conducted pursuant to these rules and leading to the formulation of a final order other than a regulation.

Administrative law judge means one who presides at an administrative hearing under authority set forth at 5 U.S.C. 556.

Board of Directors means the Board of Directors of the Federal Deposit Insurance Corporation or its designee.

Decisional employee means any member of the FDIC's or administrative law judge's staff who has not engaged in an investigative or prosecutorial role in a proceeding and who may assist the Board of Directors or the administrative law judge, respectively, in preparing orders, recommended decisions, decisions, and other documents under the Uniform Rules.

Enforcement Counsel means any individual who files a notice of appearance as counsel on behalf of the FDIC in an adjudicatory proceeding.

FDIC means the Federal Deposit Insurance Corporation.

Final order means an order issued by the FDIC with or without the consent of the affected institution or the institution-affiliated party, that has become final, without regard to the pendency of any petition for reconsideration or review.

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Institution includes any State savings association as that term is defined in section 3(b) of the FDIA, (12 U.S.C. 1813(b)), any savings and loan holding company or any subsidiary thereof whether wholly or partly owned (other than a bank) as those terms are defined in section 10(a) of the HOLA, (12 U.S.C. 1467(a)).

Institution-affiliated party means any institution-affiliated party as that term is defined in section 3(u) of the FDIA, (12 U.S.C. 1813(u)).

Local Rules means those rules found in §§ 390.71 through 390.75 of this part.

Office of Financial Institution Adjudication or *OFA* means the executive body charged with overseeing the administration of administrative enforcement proceedings for the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve Board, the National Credit Union Administration, and the FDIC.

Party means the FDIC and any person named as a party in any notice.

Person means an individual, sole proprietor, partnership, corporation, unincorporated association, trust, joint venture, pool, syndicate, agency or other entity or organization, including an institution as defined in paragraph (g) of this section.

Respondent means any party other than the FDIC.

Uniform Rules means those rules in §§ 390.30 through 390.70 of this part.

Violation includes any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

§ 390.33 Authority of the Board of Directors.

The Board of Directors may, at any time during the pendency of a proceeding perform, direct the performance of, or waive performance of, any act which could be done or ordered by the administrative law judge.

§ 390.34 Authority of the administrative law judge.

(a) *General rule.* All proceedings governed by this part shall be conducted in accordance with the provisions of chapter 5 of title 5 of the United States Code. The administrative law judge